MONTANA LEGISLATIVE HISTORY

Chapter 222 19 93

Bill H 593 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 11	✓ C	Hearing Date(s)	Mar 10	✓ C
		C		Mar 15	✓ C
		C			C
		C			C
Date Out	Feb 16	✓ C		Mar 15	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

3/27	COMMITTEE REPORT—BILL CONCURRED		
3/31	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/08	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 340		
	EFFECTIVE DATE: 10/01/93		

HB 572 INTRODUCED BY GALVIN

REVISE GROSS VEHICLE WEIGHT FEE SCHEDULE

BY REQUEST OF DEPARTMENT OF TRANSPORTATION

2/10	INTRODUCED		
2/10	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/10	FIRST READING		
2/11	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/16	FISCAL NOTE PRINTED		
2/17	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	94	5
2/23	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/18	HEARING		
4/13	TABLED IN COMMITTEE		
4/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCURRED	31	16
4/15	3RD READING CONCURRED	33	15
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	93	6
4/19	3RD READING AMENDMENTS CONCURRED	89	10
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 571		
	EFFECTIVE DATE: 01/01/94		

HB 573 INTRODUCED BY KADAS

GENERALLY REVISE RESIDENTIAL LANDLORD AND TENANT LAWS

2/10	INTRODUCED		
2/10	REFERRED TO JUDICIARY		
2/10	FIRST READING		
2/16	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	78	19
2/22	3RD READING PASSED	77	21
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO JUDICIARY		
3/10	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	50	0

3/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/24	SIGNED BY SPEAKER		
3/25	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 222		
	EFFECTIVE DATE: 10/01/93		

HB 574 INTRODUCED BY J. RICE, ET AL.

CONTINUE EXISTENCE OF APPELLATE DEFENDER SYSTEM

2/10	INTRODUCED		
2/10	REFERRED TO JUDICIARY		
2/10	FIRST READING		
2/11	FISCAL NOTE REQUESTED		
2/16	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/19	TAKEN FROM 2ND READING AND REREFERRED TO APPROPRIATIONS		
3/05	COMMITTEE REPORT—BILL PASSED		
3/08	2ND READING PASSED	91	9
3/10	3RD READING PASSED	85	12
	TRANSMITTED TO SENATE		
3/12	FIRST READING		
3/12	REFERRED TO JUDICIARY		
3/24	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	48	0
3/29	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/08	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 323		
	EFFECTIVE DATE: 04/12/93		

HB 575 INTRODUCED BY DEBRUYCKER

REVISE FARM MUTUAL INSURANCE LAWS

2/10	INTRODUCED		
2/10	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/10	FIRST READING		
2/16	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED		
2/17	2ND READING PASSED	92	6
2/19	3RD READING PASSED	94	2
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO BUSINESS & INDUSTRY		
3/24	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	45	0
3/29	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		

HOUSE BILL NO. 573

INTRODUCED BY KADAS

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
FEBRUARY 19, 1993	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.
FEBRUARY 22, 1993	THIRD READING, PASSED. AYES, 77; NOES, 21.
FEBRUARY 23, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 16, 1993	SECOND READING, CONCURRED IN.
MARCH 17, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 18, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 573

INTRODUCED BY Kadas

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE RESIDENTIAL LANDLORD AND TENANT LAWS; CHANGING DELIVERY OF NOTICE TO EXCLUDE REGISTERED MAIL; PROVIDING THAT ACCEPTANCE OF RENT OR DEPOSIT BY A LANDLORD CONSTITUTES DELIVERY OF POSSESSION OF THE DWELLING UNIT TO THE TENANT; DISALLOWING THE TRANSFER OF PREMISES DURING A TENANCY WITHOUT WRITTEN CONSENT BY A LANDLORD; PROHIBITING A TENANT FROM REMOVING A LOCK OR REPLACING OR ADDING A LOCK NOT SUPPLIED BY A LANDLORD WITHOUT PROVIDING A KEY TO THE LANDLORD; ALLOWING A TENANT TO OPERATE LIMITED BUSINESSES OR COTTAGE INDUSTRIES ON A PREMISES WITHIN REASONABLE RULES OF THE LANDLORD AND WITH THE LANDLORD'S WRITTEN CONSENT; PROVIDING THAT RULES AND REGULATIONS MUST BE APPLIED AND ENFORCED UNIFORMLY AND FAIRLY; ALLOWING A TENANT TO TERMINATE A RENTAL AGREEMENT ON THE LANDLORD'S FAILURE TO REMEDY A CASE OF EMERGENCY WITHIN 3 DAYS AFTER THE TENANT'S WRITTEN NOTICE; REQUIRING A TENANT TO HAVE REPAIRS MADE BY A QUALIFIED PERSON IN A CASE OF EMERGENCY; CLARIFYING A LANDLORD'S REMEDY FOR A TENANT'S NONCOMPLIANCE WITH A RENTAL AGREEMENT; PROVIDING A LANDLORD INJUNCTIVE RELIEF FOR A TENANT'S FAILURE TO PROVIDE THE LANDLORD WITH A KEY TO A LOCK NOT SUPPLIED BY THE LANDLORD; AND AMENDING SECTIONS 70-24-103, 70-24-108, 70-24-302, 70-24-312, 70-24-321, 70-24-401, 70-24-406, 70-24-422, AND 70-24-424, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-24-103, MCA, is amended to read:

"70-24-103. General definitions. Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter, the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" is an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant has reasonable apprehension of immediate danger to the tenant or others.

~~(2)~~(3) "Court" means the appropriate district court or the appropriate justice's court.

~~(3)~~(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or

HB 573 INTRODUCED BILL

more persons who maintain a common household. "Dwelling unit", in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

~~(4)~~ (5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

~~(5)~~ (6) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part and also means a manager of the premises who fails to disclose ~~his~~ a managerial position.

~~(6)~~ (7) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

~~(7)~~ (8) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

~~(8)~~ (9) "Person" includes an individual or organization.

~~(9)~~ (10) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances ~~therein~~ in the structure, and the grounds,

areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

~~(10)~~ (11) "Rent" means all payments to be made to the landlord under the rental agreement.

~~(11)~~ (12) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

~~(12)~~ (13) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of these facilities are used in common by occupants in the structure.

~~(13)~~ (14) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

~~(14)~~ (15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

Section 2. Section 70-24-108, MCA, is amended to read:

"70-24-108. What constitutes notice. (1) A person has notice of a fact if:

(a) he the person has actual knowledge of it;

(b) in the case of a landlord, it is delivered at the place of business of the landlord through which the rental agreement was made; or

(c) in the case of a landlord or tenant, it is delivered in hand to the landlord or tenant or mailed by registered with a certificate of mailing or by certified mail to him the person at the place held out by him the person as the place for receipt of the communication or, in the absence of such a designation, to his last known the person's last-known address. If notice is made with a certificate of mailing or by certified mail, service of the notice is considered to have been made upon the date 3 days after the date of mailing.

(2) Notice received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to his the individual's attention if the organization had exercised reasonable diligence."

Section 3. Section 70-24-302, MCA, is amended to read:

"70-24-302. Landlord to deliver possession of dwelling unit. (1) At the commencement of the term, a landlord shall

deliver possession of the premises to the tenant in compliance with the rental agreement and 70-24-303. A landlord may bring an action for possession against a person wrongfully in possession.

(2) If a landlord accepts rent or a deposit from a person intending to occupy the premises, the landlord is considered to have given consent for the person to take possession of the property and to have created a landlord-tenant relationship."

NEW SECTION. **Section 4.** Transfer of premises by tenant. (1) A tenant who vacates a dwelling unit during the term of a tenancy may not allow the possession of the property to be transferred to a third person or sublet the property unless the landlord or the landlord's agent has consented in writing.

(2) The sale or rental of a mobile home located upon a rental lot does not entitle the purchaser or renter to retain rental of the lot unless the purchaser or renter enters into a rental agreement with the owner of the lot.

(3) A mobile home owner who owns the mobile home but rents the lot space has the exclusive right to sell the mobile home without interference or conditions by the landlord. The new purchaser shall make suitable arrangements with the landlord in order to become a tenant on the mobile home lot. The purchase of the mobile home does not

automatically entitle the purchaser to rent the mobile home lot.

Section 5. Section 70-24-312, MCA, is amended to read:

"70-24-312. Access to premises by landlord. (1) A tenant may not unreasonably withhold consent to the landlord or ~~his~~ the landlord's agent to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) A landlord may not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice of ~~his~~ the intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

(a) pursuant to court order;

(b) as permitted by 70-24-425 and 70-24-426(2); or

(c) when the tenant has abandoned or surrendered the premises.

(5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises without

the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will have the right of access as provided by this chapter."

Section 6. Section 70-24-321, MCA, is amended to read:

"70-24-321. Tenant to maintain dwelling unit. (1) A tenant shall:

(a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(b) keep that part of the premises that he the tenant occupies and uses as reasonably clean and safe as the condition of the premises permits;

(c) dispose from ~~his~~ the dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(d) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(e) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, in the premises;

(f) conduct ~~himself~~ oneself and require other persons on the premises with ~~his~~ the tenant's consent to conduct

themselves in a manner that will not disturb ~~his~~ the tenant's neighbors' peaceful enjoyment of the premises; and

(g) use the parts of the premises including the living room, bedroom, kitchen, bathroom, and dining room in a reasonable manner considering the purposes for which they were designed and intended. This section does not preclude the right of the tenant to operate a limited business or cottage industry on the premises, subject to state and local laws, provided the landlord has consented in writing. The landlord may not unreasonably withhold consent, provided that the limited business or cottage industry is operated within reasonable rules of the landlord.

(2) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so."

Section 7. Section 70-24-401, MCA, is amended to read:

"70-24-401. Administration of remedies -- enforcement. (1) The remedies provided by this chapter ~~shall be so~~ must be administered so that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

(3) Rules and regulations that are not a part of this

chapter and that affect the relationship between the landlord and tenant must be uniformly and fairly applied and enforced."

Section 8. Section 70-24-406, MCA, is amended to read:

"70-24-406. Failure of landlord to maintain premises -- tenant's remedies. (1) Except as provided in this chapter, if there is a noncompliance with 70-24-303 affecting health and safety, the tenant may:

(a) deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 14 days. If the noncompliance results in a case of emergency and the landlord fails to remedy the situation within 3 working days after written notice by the tenant of the situation and the tenant's intention to terminate the rental agreement, the tenant may terminate the rental agreement. The rental agreement terminates as provided in the notice subject to the following exceptions:

(i) if the breach is remediable by repairs, the payment of damages, or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate by reason of the breach;

(ii) if substantially the same act or omission which

constituted a prior noncompliance of which notice was given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice specifying the breach and the date of termination of the rental agreement;

(iii) the tenant may not terminate for a condition caused by ~~himself~~ the tenant, a member of ~~his~~ the tenant's family, or other persons on the premises with ~~his~~ the tenant's consent;

(b) make repairs ~~himself~~ that do not cost more than 1 month's rent and deduct the cost from the rent if ~~he~~ the tenant has given the landlord notice and ~~he~~ the landlord has not made the repairs within a reasonable time. If the repair is required in a case of emergency and the landlord has not made the repairs, the tenant may have repairs made only by a person qualified to make the repairs.

(2) Except as provided in this chapter, the tenant may recover actual damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or 70-24-303.

(3) The remedy provided in subsection (2) of this section is in addition to a right of the tenant arising under subsection (1).

(4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant pursuant

to chapter 25 of this title."

Section 9. Section 70-24-422, MCA, is amended to read:

"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction. (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided in the notice subject to the following exceptions:

(a) If the breach is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate.

(b) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the breach and the date of the termination of the rental agreement.

(2) (a) Except as provided in subsection (2)(b), if

rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and ~~his~~ the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(b) For a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home, the notice period referred to in subsection (2)(a) is 15 days.

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the breach under the provisions of 70-24-321(2).

(4) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (5), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(5) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(6) The landlord is not bound by this section in the event the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

Section 10. Section 70-24-424, MCA, is amended to read:

"70-24-424. Refusal of access -- landlord's remedies. (1) If the tenant refuses to allow lawful access, the landlord may either obtain injunctive relief to compel access or terminate the rental agreement. In either case the landlord may recover actual damages.

(2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises and fails to provide a key as required by 70-24-312(5), the landlord may either obtain injunctive relief or terminate the rental agreement."

NEW SECTION. **Section 11.** Codification instruction. [Section 4] is intended to be codified as an integral part of Title 70, chapter 24, part 3, and the provisions of Title 70, chapter 24, part 3, apply to [section 4].

-End-

basis of the outcome of a game, and trial lawyers have no objection to that immunity. The MTLA's concern is the chance of personal injury on the field, and they believe there should be a reasonable standard of care around the people involved. **Mr. Hill** said **REP. SAYLES'** amendment should address this. **EXHIBIT 4**

Questions From Committee Members and Responses:

REP. WHALEN asked **Mr. McIntyre** if there is officiating insurance available or whether this is a risk officials take upon themselves. **Mr. McIntyre** said there has not been a lot of litigation with respect to this subject in Montana, but it is becoming more common throughout the United States that officials be covered by liability insurance. He related that most officials work in varsity sports for only $40 a game, and that isn't enough to pay for adequate coverage. **REP. WHALEN** asked if the Montana Officials Association, Montana High School Association, or an association that governs the officials carry insurance. **Mr. McIntyre** said the Montana High School Association does carry insurance that covers activities of officials.

REP. TOOLE said this approach has the possibility of creating a negligent situation. He wonders if it may be better to have an indemnity clause as opposed to changes in the liability standard in the bill. **Mr. McIntyre** said an indemnity clause is an option, and he will certainly consider it in the 1995 session.

Closing by Sponsor: None

HEARING ON HB 573

Opening Statement by Sponsor:

REP. MIKE KADAS, House District 55, Missoula, said that HB 573 is a bill revising the residential landlord and tenant laws. He addressed two new sections of the bill, sections 4 and 5. Section 4 states that a tenant cannot sublet without letting the landlord know about it, and section 5 states that tenants must provide the landlord keys if new locks are put on the door.

Proponents' Testimony:

Melissa Case, Montana Peoples Action (MPA), stated that MPA spent the year 1992 deliberating a case involving tenants and landlords and this legislation is the result of that case.

On record in support of HB 573 but not testifying:

Steve Mandeville, Legislative Chairman for Montana Association of Realtors

Tootie Welker, Montana Alliance for Progressive Policy

Greg Van Horssen, Income Property Managers Association and Montana Landlords Association

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON HB 506

Opening Statement by Sponsor:

REP. TASH, House District 73, Dillon, said this bill allows a religious group or nonprofit organization to hold a raffle for which the prize is real property certified in writing by a licensed appraiser to be worth more than $5,000.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON HB 582

Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte, said that the concealed weapons law was passed in the 1991 Montana legislature. HB 582 is an attempt to amend a few provisions. Amendments added are on page 3, lines 16-19; page 4, line 25 and continued on page 5, lines 1-5; and page 5, section 2, lines 6-14.

Proponents' Testimony:

Bill Fleiner, Board member of the Montana Sheriffs and Peace Officers Association, said he believes that REP. BROWN has done a very good job trying to resolve conflict within a varied number of groups, and he hopes this is the last time that the MSPOA will

On record to support HB 590:

Melissa Case, Montana Community Labor Lines and Montana Peoples Action

Paul Peterson, employee for Montana Summit, a volunteer for the Coalition of Montanans Concerned With Disabilities

Opponents' Testimony: None.

Informational Testimony:

Debra Fulton, Administrator, General Services Division, Department of Administration (DOA), did not testify on behalf of the DOA as a proponent of an opponent, but she discussed the effect of this bill on her department. She referred to page 8, line 4 and offered an amendment. **EXHIBIT 7** The bill is based upon "reasonable accommodation," and it lists the reasonable accommodations. In the federal statute, the language is "reasonable accommodation may include making existing facilities used by employees accessible..." DOA believes that is an important distinction.

Questions From Committee Members and Responses:

CHAIRMAN FAGG asked **David Rusoff, Attorney, Montana Human Rights Commission,** whether this bill goes any further than the federal ADA. **Mr. Rusoff** said it does not, and that the language that **Ms. Fulton** proposed was not included in the bill because it was probably an oversight. **Mr. Rusoff** did not see any other oversights in the bill. He did notice the only difference in this bill compared to the federal bill would be making the language in HB 590 consistent with other terms already used in the Human Rights Act. For instance, the Human Rights Act uses the term "physically handicapped" rather than disability, and this committee has a bill before it which would change those terms to substitute the terms used in the ADA to physical disability.

Closing by Sponsor:

REP. TOOLE believes this bill brings to Montana an enforcement of the law under federal requirements. He does not have any desire to make HB 590 any different from federal law.

EXECUTIVE ACTION ON HB 573

Motion/Vote: **REP. VOGEL MOVED HB 573 DO PASS.** Motion carried unanimously.

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Sayles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow			✓
Rep. Diana Wyatt	✓		

HR:1993
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CS-09

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Mr. Speaker: We, the committee on Judiciary report that House Bill 573 (first reading copy -- white) do pass .

Signed: _____

Russ Fagg, Chair

Committee Vote:

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. HB 573

DATE Feb. 16, 1993 SPONSOR(S) M. Kadas

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Greg Van Horsser	IPMA/MLA	✓	
Steve Mandeville	MT Assoc Realtors	X	
Todd Welter	MAPP	✓	
Melissa Case	Montana Peoples Action	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 10, 1993, at 10:06 a.m.

ROLL CALL

Members Present:
Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Sen. Brown, Sen. Crippen, Sen. Harp

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 562
	HB 573
	HB 521
Executive Action:	HB 521
	HB 555
	HB 234

HEARING ON HB 573

Opening Statement by Sponsor:
Representative Kadas, District 55, said HB 573 was worked out between the Montana Peoples Action and the Montana Landlords Association regarding tenant landlord relations. Section 1 defines case of emergency. Section 2 changes the requirement

that a receipt of notice must be by a certificate of mailing. Section 3 states that when a landlord accepts rent or deposit, it would mean that the person is able to take possession of that particular property. Section 4, is a new section which sets up the circumstances when a person sublets an apartment. Section 5, deals with the situation when a tenant changes the lock on an apartment and does not give the landlord a key. Rep. Kadas said the landlord has to have access in cases of emergency. Section 5 requires that if the tenant does change the lock they would have to give the landlord a key. The landlord would have access to the apartment under very limited restrictions. Section 6 states that a tenant could operate a small business in their rental within rules that are set forth by the landlord. Section 7, deals with rules and regulations. Section 8 states that a tenant could file a notice to terminate the rental agreement if a problem, such as an infestation of rats, has not been taken care of by the landlord. Also, if the tenant decides to take care of the problem they would have find someone qualified to make the repairs. Section 9 clarifies that the landlord can use the other sections for terminating the 30 day notice provision on evictions. Section 10 deals with the situation when a tenant changes a lock and does not give the landlord a key.

Proponents' Testimony:
Melissa Case, Montana People's Action, told the Committee that the Montana People's Action and the Montana Landlord Association reached agreements on all the issues. Ms. Case urged support for HB 573.

Greg Van Horssen, Income Property Managers Association, Montana Landlords Association, Montana Association of Realtors, said HB 573 represents a compromise reached between property managers and renters. Mr. Van Horssen strongly urged support for HB 573.

Opponents' Testimony:
Walter Jackovich read from prepared testimony. (Exhibit #1)

Questions From Committee Members and Responses:
Senator Grosfield asked Mr. Van Horssen about page 9, lines 6 through 12. Mr. Van Horssen said there was concern raised by the opponent that a business may interfere with the rights of other residents in a multifamily unit or a mobile home park. The language on line 10 through 12 provides that if a business would have to be operated within the reasonable rules of the landlord. Mr. Van Horssen said most property managers have Rules that take into consideration the rights of other residents. If a business interferes with the neighbors, the business would not be allowed to operate.

Senator Grosfield asked Mr. Van Horssen about page 9, subsection 3. Mr. Van Horssen said there is a concern that managers of

mobile home parks may be treating individuals differently with respect to interpretation of the rules. The language is meant to address rules that apply to the landlord and tenant relationship. Mr. Van Horssen said concern has been raised that there has been an arbitrary enforcement of the rules.

Senator Grosfield asked Rep. Kadas about page 11, lines 14 through 16. Rep. Kadas said depending on the problem would determine who would do the repairs.

Senator Rye asked Mr. Jackovich why he is opposed to tenant running a businesses in their home. Mr. Jackovich said if the landlord told a person they could not run the business, the tenant could take the landlord to court. Mr. Jackovich said he provides for a place of housing not business.

Senator Rye asked Mr. Jackovich about his opposition to small businesses in a rental. Mr. Jackovich told the Committee that all tenants share expenses, such as outside facilities and parking. Mr. Jackovich said parking is a big problem. If a business is started in a home then traffic would be coming in that would cause undo hardship for those people who are paying rent on that particular parking lot. A business would also increase the cost of utilities and more wear and tear on the facility.

Senator Blaylock asked Mr. Jackovich about page 5, lines 13 through 16. Mr. Jackovich said the section needs to be clarified so that any one method of notification would be necessary for notice. For example, if a person delivers the notice in person then it would not be necessary to mail the notice.

Senator Blaylock asked Rep. Kadas about changing section 2. Rep. Kadas said that the concern is already met in HB 573. A landlord can deliver the notice by hand, or by mail. The inserted language is only operative if the notice is delivered by mail.

Senator Grosfield asked Rep. Kadas about the language "the landlord may not unreasonable withhold consent" on page 9. Rep. Kadas said the court would define unreasonable. Reasonable is a standard which is widely used in the Landlord/Tenant Act.

Senator Bartlett asked Ms. Case about the certificate of mailing. Ms. Case said they are referring to certified mail. Ms. Case said instead of the landlord handing notice to the tenant the postal service would get a signature to assure that the tenant had received the notice.

Senator Bartlett said that may be the intent, but is not how HB 573 was drafted. Chair Yellowtail agreed. Chair Yellowtail said on line 9, HB 573 makes a distinction between the certificate of mailing and certified mail.

Chair Yellowtail asked Ms. Case the meaning of certificate of

mailing. Ms. Case said certified mail was the intention, not certificate of mailing.

Senator Bartlett asked Ms. Case if certificate of mailing should be struck and insert certified return receipt. Ms. Case said yes.

Chair Yellowtail said HB 573 replaces the old language that said registered mail with this new term certificate of mailing. Mr. Van Horssen said certified mailing is something that happens through the postal service and the postal service keeps track of those records. Mr. Van Horssen suggested that the language, certificate of mailing, offers the landlord or tenant an opportunity to circumvent the certified mailing requirement by signing a document stating that they personally sent the notice on a particular date to a particular person.

Closing by Sponsor:
Representative Kadas closed. Rep. Kadas told the Committee he would look into the issue of the certificate of mailing if the Committee so desired.

HEARING ON HB 521

Opening Statement by Sponsor:
Representative Davis, District 53, said HB 521 is a simple bill. Rep. Davis said HB 521 inserts the word "sexual." Rep. Davis said sexual abuse is defined on page 3, line 14, sub 10. "Sexual abuse means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, or incest, as described in Title 45, chapter 5, part 5." Rep. Davis told the Committee the reason for HB 521 is because of a case of a 19 year old who was being sexually abused by her father. The mother brought it to court, but was unable to remove the woman from the situation because she was an adult. Thus, this is the reason for clarifying HB 521 to include sexual abuse.

Proponents' Testimony:
Tom Harrison, Montana Sheriffs and Peace Officers Association, said circumstances that lead to HB 521 are precisely as Rep. Davis indicated. A developmentally disabled adult living in the home was being sexually abused by her father. Because she was an adult there were no grounds for the separation of that person from those circumstances. Fortunately, the situation resolved itself with the mother leaving that home with the daughter. The Department of Social and Rehabilitation Services and the County Attorneys both recommend the change in HB 521. Mr. Harrison urged support for HB 521.

Harley Warner, Montana Association of Churches urged support for HB 521.

ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-10-98

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown			X
Senator Crippen			X
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp			X
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

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Attach to each day's minutes

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 3-10-93
BILL NO. HB573

RE: HB 573

In case I'm unavailable when this bill is heard in the Senate, I would appreciate it if you would address these adjustments for me and present them to the committee members.

Section 2 - Page 5 - 70-24-108
Clarify that any one method of notification is all that is necessary for notice i.e., deliver notice in person then not necessary to mail etc.

Page 6 - Paragraph (2)
If a landlord accepts rent or a deposit. ---- Should read full rent or full deposit before this consent can be transmitted. Also that a bounced check for any reason also nullifies this consent or tenant landlord relationship.

Section 6 - Page 9 - 70-24-321 Para (g) Line 6 thru 12
There should be a distinction here between single family dwellings and multifamily dwellings (apartments). Such as PHA, HUD and condominium type housing units.

The HUD units as ours specify that NO business may be operated within the community. Business attracts customers and could place undue burdens on the other residents by increased traffic, excess wear and tear, greater utility costs, liability, etc. Must have exemption for these types of housing facilities.

Section 8 - Page 11 - Para (b) lines 13 thru 16
Clarification needed here as to amount and extent of remedy may be undertaken. Could cause financial hardship on owner. Very tricky grounds here. Need monetary limits and type of repairs.

Thank you!

Walter F. Jackovich
3400 Hill Avenue
Butte, Montana 59701
Ph. 406-494-3400

DATE 3-10-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 521, 562, 573

Name	Representing	Bill No.	Check One: Support	Oppose
John Connor	MT County Atty Assn	HB562	X	
Hailey WARNER	ASSOC OF CHURCHES	HB 521 HB 562	X X	
Melissa Case	Montana Peoples Action	HB 573	X	
Walter L. McRoberts	Self	HB 573		X
Tootie Welker	MAPP	HB 573	X	
Craig Young	MLTA	HB 573	X	
Laurie Koutnik	Christian Coalition of MT	HB 562/521	X	
SHARON Hoff	MT CATH. Conf	HB521 HB562	X	
[illegible]	Self	521 562	X	
[illegible]	Self	562	X	
Jenny Eaton	Self	562	X	
Kathleen [illegible] Hoberg	Myself	562	X	
Gail Hollander	Voluntary Organization - LDS Church	562	X	
Patti Erickson	Montana Catholic Conference	562	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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how it would work. Mr. Pomroy said the DCHS would provide information for the Committee within the week.

Closing by Sponsor:
Representative Rice said HB 468 would be sensitive to the judges need to fulfill their responsibility in protecting their communities. 44 states have sentencing statutes that require offenders to be sentenced to a central authority. HB 468 does not go that far, but shifts the emphasis to move in that direction. Rep. Rice said HB 468 is not a great step, but it is an important step for the continuing community corrections effort.

EXECUTIVE ACTION ON HB 409

Discussion:
Senator Towe explained amendment hb040901.avl. (Exhibit #2)

Motion:
Senator Towe moved to AMEND HB 409.

Discussion:
Senator Blaylock asked Senator Towe about not amending HB 409. Senator Towe said if the amendments are not on the bill, HB 409 should be killed. If HB 409 is not amended the bill would only work where there is a resident judge sitting, which would be less than half the counties in the state.

Vote:
The motion to amend HB 409 CARRIED UNANIMOUSLY.

Motion/Vote:
Senator Towe moved HB 409 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senators Halligan and Blaylock voting NO.

EXECUTIVE ACTION ON HJR 21

Motion/Vote:
Senator Halligan moved to TABLE HJR 21. The motion CARRIED with Senators Crippen and Brown voting NO.

EXECUTIVE ACTION ON HB 573

Motion/Vote:
Senator Bartlett moved HB 573 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 496

Motion:
Senator Bartlett moved to AMEND HB 496. (Exhibit #3)

Discussion:
Senator Bartlett explained amendment hb049601.avl.

Vote:
The motion to amend HB 496 CARRIED UNANIMOUSLY.

Motion/Vote:
Senator Brown moved HB 496 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:48 a.m.

Wm Yellowtail
BILL YELLOWTAIL, Chair

Rebecca Court
REBECCA COURT, Secretary

BY/rc

ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-15-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye			X

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Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

March 15, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 573 (first reading copy -- blue), respectfully report that House Bill No. 573 be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

Amd. Coord.
Sec. of Senate

Bartlett
Senator Carrying Bill

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